

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

GEORGIA L. WEST,

Plaintiff,

v.

Case Number 07-13711-BC
Honorable Thomas L. Ludington

MICHIGAN STATE POLICE, OFFICER
MICHAEL ROWE, OFFICER BRYAN JAREMA,

Defendants.

/

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING DEFENDANTS' MOTIONS TO DISMISS,
DISMISSING DEFENDANT MICHIGAN STATE POLICE,
AND DISMISSING DUE PROCESS CLAIM WITH PREJUDICE

This matter is before the Court on a report issued by Magistrate Judge Charles E. Binder on May 22, 2008. The magistrate judge recommended granting Defendant Michigan State Police (MSP)'s motion to dismiss because it is immune from suit under the Eleventh Amendment. The magistrate judge further recommended granting Defendants MSP, Michael Row, and Bryan Jarema's motion to dismiss because courts have required claims of excessive force against the police to proceed under the Fourth Amendment, rather than under the due process clause of the Fourteenth Amendment.

As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the

Court agrees with the reasoning and conclusion of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt #25] is **ADOPTED**, that Defendant MSP's motion to dismiss [dkt #9] is **GRANTED**, Defendant MSP is **DISMISSED**, that Defendants MSP, Rowe, and Jarema's motion to dismiss [dkt #10] is **GRANTED**, and that Plaintiff Georgia West's claim of a violation of the due process clause of the Fourteenth Amendment is **DISMISSED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 11, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 11, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS